

Department of Justice

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§ 2.38 Community supervision by U.S. Probation Officers.

(a) Pursuant to sections 3655 and 4203(b)(4) of title 18 of the U.S. Code, U.S. Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to persons released by parole or as if on parole (mandatory release) under the Commission's jurisdiction.

(b) A parolee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

[44 FR 3409, Jan. 16, 1979]

§ 2.39 Jurisdiction of the Commission.

(a) Jurisdiction of the Commission over a parolee shall terminate no later than the date of expiration of the maximum term or terms for which he was sentenced, except as provided by § 2.35, § 2.43, or § 2.52.

(b) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(c) Upon the termination of jurisdiction, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

[42 FR 39809, Aug. 5, 1977, as amended at 48 FR 22919, May 23, 1983]

§ 2.40 Conditions of release.

(a)(1) *General conditions of release and notice by certificate of release.* All persons on supervision must follow the conditions of release described in § 2.204(a)(3) through (6). These conditions are necessary to satisfy the purposes of release conditions stated in 18 U.S.C. 4209. Your certificate of release informs you of these conditions and special conditions that we have imposed for your supervision.

(2) *Refusing to sign the certificate of release.* (i) If you have been granted a parole date and you refuse to sign the certificate of release (or any other document necessary to fulfill a condition of release), we will consider your re-

fusal as a withdrawal of your application for parole as of the date of your refusal. You will not be released on parole and you will have to reapply for parole consideration.

(ii) If you are scheduled for release to supervision through good-time deduction and you refuse to sign the certificate of release, you will be released but you still must follow the conditions listed in the certificate.

(b) *Special conditions of release.* We may impose a condition of release other than a condition described in § 2.204(a)(3) through (6) if we determine that imposing the condition is reasonably related to the nature and circumstances of your offense or your history and characteristics, and at least one of the following purposes of criminal sentencing: The need to deter you from criminal conduct; protection of the public from further crimes; or the need to provide you with training or correctional treatment or medical care. In choosing a condition we will also consider whether the condition involves no greater deprivation of liberty than is reasonably necessary for the purposes of deterrence of criminal conduct, protection of the public from crime and offender rehabilitation. We list some examples of special conditions of release at § 2.204(b)(2).

(c) *Participation in a drug-treatment program.* If we require your participation in a drug-treatment program, you must submit to a drug test within 15 days of your release and to at least two other drug tests, as determined by your supervision officer. If we decide not to impose the special condition on drug-treatment, because available information indicates you are a low risk for substance abuse, this decision constitutes good cause for suspending the drug testing requirements of 18 U.S.C. 4209(a). You must pass all pre-release drug tests administered by the Bureau of Prisons before you are paroled. If you fail a drug test your parole date may be rescinded.

(d) *Changing conditions of release.* After your release, we may change or add to the conditions of release if we decide that such action is consistent with the criteria described in paragraph (b) of this section. In making

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these changes we will use the procedures described in § 2.204(c) and (d). You may appeal our action as provided in §§ 2.26 and 2.220.

(e) *Application of release conditions to an absconder.* If you abscond from supervision, you will stop the running of your sentence as of the date of your absconding and you will prevent the expiration of your sentence. You will still be bound by the conditions of release while you are an absconder, even after the original expiration date of your sentence. We may revoke your release for a violation of a release condition that you commit before the revised expiration date of your sentence (the original expiration date plus the time you were an absconder).

(f) *Revocation for possession of a controlled substance (18 U.S.C. 4214(f)).* If we find after a revocation hearing that you have illegally possessed a controlled substance, we must revoke your release. If you fail a drug test, we must consider whether the availability of appropriate substance abuse programs, or your current or past participation in such programs, justifies an exception from the requirement of mandatory revocation. We will not revoke your release on the basis of a single, unconfirmed positive drug test if you challenge the test result and there is no other violation found by us to support revocation.

(g) *Supervision officer guidance.* See § 2.204(g).

(h) *Definitions.* See § 2.204(h).

[79 FR 51257, Aug. 28, 2014]

§ 2.41 Travel approval.

(a) The probation officer may approve travel outside the district without approval of the Commission in the following situations:

(1) Vacation trips not to exceed thirty days.

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities.

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Commission is required for all foreign travel, employment requiring recurring travel more than fifty miles out-

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side the district (except employment at offshore locations), and vacation travel outside the district exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

(c) A special condition imposed by the Regional Commissioner prohibiting certain travel shall supersede any general rules relating to travel as set forth above.

[42 FR 39809, Aug. 5, 1977, as amended at 44 FR 3408, Jan. 16, 1979; 48 FR 9247, Mar. 4, 1983; 57 FR 59916, Dec. 17, 1992]

§ 2.42 Probation officer's reports to Commission.

A supervision report shall be submitted by the responsible probation officer to the Commission for each parolee after the completion of 24 months of continuous supervision and annually thereafter. The probation officer shall submit such additional reports as the Commission may direct.

[51 FR 11017, Apr. 1, 1986]

§ 2.43 Early termination.

(a)(1) Upon its own motion or upon request of a parolee, the Commission may terminate a parolee's supervision, and legal custody over the parolee, before the sentence expires.

(2) The Commission may terminate supervision of a committed youth offender after the offender serves one year on supervision. Upon terminating supervision before the sentence expires, the Commission shall set aside the committed youth offender's conviction and issue a certificate setting aside the conviction instead of a certificate of termination.

(b) Two years after releasing a prisoner on supervision, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. The Commission shall also conduct a status review whenever the supervision officer recommends early termination of the parolee's supervision.

(c) Five years after releasing a prisoner on supervision, the Commission shall terminate supervision over the